

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 90-588-G - ORDER NO. 95-1513 ✓  
SEPTEMBER 13, 1995

IN RE: South Carolina Pipeline Corporation -	)	ORDER
Maximum Rates for Industrial Customers	)	DENYING
	)	MOTIONS FOR
	)	RATE SANCTIONS
	)	AND RULING ON
	)	PRE-FILED
	)	TESTIMONY

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of the South Carolina Energy Users Committee (SCEUC) for Rate Sanctions against South Carolina Pipeline Corporation (SCPC or Pipeline) in this Docket. The Motion includes requests for Protective Orders regarding pre-filing dates, opportunity for discovery, and the resetting of the hearing date in the matter, as well as alternate relief.

Oral arguments were held in this matter on September 12, 1995 at 11:00 a.m. in the offices of the Commission, with the Honorable Rudolph Mitchell, Chairman, presiding. The Movant, SCEUC, was represented by Arthur G. Fusco, Esquire; the Respondent, SCPC was represented by Mitchell Willoughy, Esquire, and Sarena D. Burch, Esquire. Also present were the Intervenor Lancaster, York, and Chester County Natural Gas Authorities, represented by Emil W. Wald, Esquire; the Consumer Advocate for the State of South

Carolina (the Consumer Advocate), represented by Elliott F. Elam, Jr., Esquire; and South Carolina Electric & Gas Company (SCE&G) represented by Francis P. Mood, Esquire. The Commission Staff was present, and was represented by F. David Butler, General Counsel, and Catherine D. Taylor, Staff Counsel.

The SCEUC alleges in its Motion that SCPC violated the provisions of S.C. Code Ann. §58-5-240(A)(Supp. 1994), which provides that a regulated public natural gas utilities shall give the Commission "not less than thirty (30) days notice of its intention to file" a new rate. SCEUC also alleges that SCPC failed to comply with Regulation 103-834 of the Commission's Rules of Practice and Procedure, which requires that certain items be filed in connection with a pending rate proceeding. The SCEUC urged that sanctions be imposed on the utility as the way to "ensure subsequent compliance with laws and regulations." The SCEUC suggests that pocketbook sanctions are necessary, and requests that SCPC's industrial rates be lowered to the national average transportation rate, as reported by the American Gas Association. In 1993, this average was 33¢ per dekatherm.

The SCEUC also requests other relief, including dismissal with prejudice of the "rate increase request" of SCPC, excluding from the proceedings any testimony pertaining to the "rate increase request" of the utility, exclusion of the utility's study by Cronin and Wright, rescheduling of Intervenor pre-filing dates to accommodate discovery and development of information, authorization of additional Staff pre-filing time as is fair and

appropriate, and other relief.

SCPC filed a Return to the Motion. The utility denies that either §58-5-240(A), or Regulation 103-834 have been violated. Pipeline alleges that, contrary to SCEUC's contention, it is not seeking approval of new "rates" pursuant to the statute. According to Pipeline, the caps at issue in this matter are not rates, but are the maximum markups applied to Pipeline's cost of gas. The rates themselves that Pipeline charges are negotiated between Pipeline and the industrial customer. Further, Pipeline states that it did not initiate the request to approve increased caps, but has "merely responded to the Commission's previous decision to consider the appropriateness of the current rate cap levels." Pipeline therefore alleges that neither §58-5-240(A), nor R.103-834 are applicable. Pipeline states its belief that it is not filing an Application in this matter, but is presenting its position on a matter which the Commission has directed the parties to address, and therefore the statute and the rule do not apply.

SCPC requests that the Commission reject the request by SCEUC for additional time in which to conduct discovery and pre-file its evidence. Pipeline states that even though it has been eight months since the Commission's ultimate ruling on the scope of this proceeding, that SCEUC has not served even a single discovery request upon Pipeline, until recently. Pipeline also claims that SCEUC cannot claim surprise, since the Docket was opened five years ago pursuant to an Order in Docket No. 90-204-G, that all parties have known that its purpose was to examine the appropriate

level of caps for negotiated rates with Pipeline's industrial customers. For these reasons and others, Pipeline believes that the Motion for Rate Sanctions should be denied, and that the SCEUC should be required to pre-file testimony and exhibits in accordance with the Commission's prior Orders in this proceeding.

The Commission has examined the language of its Order No. 90-729 in Docket No. 90-204-G, and notes the following language. "The Commission hereby Orders that a hearing be scheduled to review these maximum rate levels, and to make a determination as to whether or not such rate levels are appropriate...." This Commission does not believe that this prior language removed from consideration the possibility that the rate caps could be increased, if the appropriate evidence is rendered to this Commission. Of course, we make no finding as to whether or not increases in the rate caps are justified or not until we hear all of the evidence and review the entire record of his case in the upcoming proceeding.

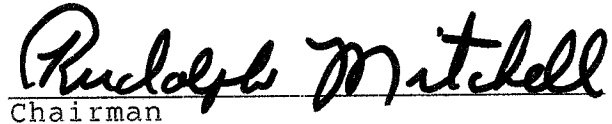
Further, we note that the genesis of this entire Docket came from Order No. 90-729, thus, the matter does not constitute a rate case in which §58-5-240(A), and Regulation 103-834 would apply. We therefore hold that the Motion for Sanctions must be denied.

We do believe, however, that SCEUC should have additional time to pre-file testimony in this Docket. We therefore hold that SCEUC must pre-file its testimony and exhibits on or before September 19, 1995. SCPC shall have until on or before September

26, 1995 to file rebuttal testimony and exhibits to SCEUC's testimony and exhibits. Both SCEUC and SCPC shall serve all other parties with copies of testimony and exhibits, in accordance with Commission rules. All other matters contained in SCEUC's Motion are hereby denied, except as stated hereinbefore.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)